



PUBLIC NOTICE

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APPLICATION GRANTED FOR THE ACQUISITION OF CERTAIN ASSETS OF 3 RIVERS TELEPHONE COOPERATIVE, INC. BY SIYEH COMMUNICATIONS

WC Docket No. 20-85

JOINT PETITION GRANTED FOR WAIVER OF THE DEFINITION OF STUDY AREA WITH RESPECT TO THE TRANSFER OF THE BROWNING, MONTANA EXCHANGE

CC Docket No. 96-45; WC Docket No. 10-90

By this Public Notice, the Wireline Competition Bureau (Bureau) grants, as conditioned, an application filed by 3 Rivers Telephone Cooperative, Inc. (3 Rivers) and Siyeh Communications (SiyCom) (collectively, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules, requesting approval for the acquisition of certain assets of 3 Rivers in the Browning Exchange in Montana by SiyCom.¹ No party filed comments in opposition to the proposed transaction, and the Bureau has determined that grant of this Application serves the public interest. Accordingly, the Application is granted with the conditions stated herein.²

The Bureau also grants the Applicants' petition for waiver³ of the study area boundary freeze codified in the Appendix-Glossary of Part 36 of the Commission's rules.⁴ We find that granting the

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04. Application for Assignment of Assets of 3 Rivers Telephone Cooperative, Inc. to Siyeh Communications, WC Docket No. 20-85 (filed Mar. 23, 2020) (Application).

² On April 3, 2020, the Bureau accepted the Application for filing and received one comment in support of the proposed transaction. *Domestic Section 214 Application Filed for the Acquisition of Certain Assets of 3 Rivers Telephone Cooperative, Inc. by Siyeh Communications*, WC Docket No. 20-85, Public Notice, DA 20-380 (WCB 2020); Reply Comments of Ronan Telephone Company, WC Docket No. 20-85 (filed Apr. 24, 2020) (stating that Ronan Telephone Company, an incumbent local exchange carrier (LEC) operating in western Montana, has a business relationship providing services to SiyCom and seeks to continue to work with SiyCom post-transaction in order to improve the availability of broadband service in the Browning Exchange and to the Blackfeet community).

³ See Application at 6-7 and App. A (Joint Petition for Waiver of the Definition of Study Area with Respect to the Transfer of the Browning, Montana Exchange, WC Docket No. 10-90 and CC Docket No. 96-45 (filed Mar. 23, 2020) (Petition). 3 Rivers and SiyCom have also filed a separate request for "an expedited waiver of Sections 51.917(b)(1), (b)(7), and (d)-(f) of the FCC's rules to the extent required, in order to apportion 3 Rivers' current Connect America Fund Inter-carrier Compensation ('CAF ICC') Base Period Revenues ('BPR') between 3 Rivers and SiyCom once the above-referenced Section 214 application and associated study area waiver are granted. The parties request approval to apportion BPR between 3 Rivers and SiyCom . . . effective January 1, 2021, which will be right after the parties close on their transaction. In addition, SiyCom seeks a waiver of Sections 61.38 and 69.3(e)(6) and (11) of the FCC's rules." Letter from Gregory J. Vogt, Counsel for Siyeh, and Michael Bennet, Counsel for 3 Rivers, to Kris Monteith, Chief, WCB, WC Docket No. 20-85 (filed Oct. 26, 2020). Grant of the domestic section 214 application and petition for waiver of the study area boundary is without prejudice to other related pending Commission items or proceedings.

Petition, as conditioned, would serve the public interest and is consistent with the efficient use of limited universal service funding (USF).

Applicants and Description of the Transaction

3 Rivers, a Montana cooperative, serves as an incumbent LEC in 26 exchanges in Montana, including serving 2,322 lines in the Browning Exchange, which is located almost entirely on the Blackfeet Reservation.⁵ SiyCom, a Montana non-profit corporation, currently provides broadband services to approximately 179 subscribers on the Blackfeet Reservation.⁶ SiyCom is wholly owned and chartered by Siyeh Corporation, a federally chartered for-profit corporation owned by the Blackfeet Nation.⁷

Pursuant to the terms of the proposed transaction, SiyCom will acquire substantially all of the assets of 3 Rivers in the Browning Exchange, including, but not limited to, its telecommunications facilities, customer databases, and associated contracts.⁸

Applicants state that the proposed transaction would serve the public interest because, among other reasons, the customers in the Browning Exchange are located exclusively on the Blackfeet Reservation and, therefore, would be served by the same Tribal-owned company that currently provides broadband services there.⁹ They explain that SiyCom intends to extend fiber to all locations within the Browning Exchange in order to improve service to residential and business customers.¹⁰ According to SiyCom, its deployment plans, which will include providing service through fixed wireless facilities in certain locations on an interim basis while it deploys fiber, will result in many customers on the Blackfeet Reservation having broadband service available to them for the first time.¹¹ Applicants assert that to fund the deployment of broadband to all parts of the Reservation, the Blackfeet Indian Tribe will “invest a substantial amount of paid in capital in SiyCom to support broadband deployment.”¹² Applicants further state that, in acquiring the rate-of-return lines from 3 Rivers in the Browning Exchange, SiyCom expects to accept fixed levels of USF support in accordance with the Alternative Connect America Cost Model

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⁴ See 47 CFR Part 36 App.

⁵ Letter from Carri Bennet, Counsel for 3 Rivers, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, WC Docket Nos. 09-197, 10-90, 05-337, at 1 (filed Oct. 26, 2020); Petition at Attach. 1 (Browning Exchange Boundary Map). Applicants state that a small portion of the Browning Exchange “proposed to be transferred to SiyCom as a result of the Application” includes territory located in Glacier County, Montana, but not on the Blackfeet Reservation, and that 3 Rivers does not have any customers or facilities in that area. See Letter from Gregory J. Vogt, Counsel for Siyeh Communications, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-85 (filed Mar. 28, 2020). See Application at n.5.

⁶ Application at 4-5.

⁷ *Id.*

⁸ *Id.* at 5.

⁹ *Id.* at 9-10.

¹⁰ *Id.* at 7-8; Letter from Gregory J. Vogt, Counsel for SiyCom, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, WC Docket Nos. 09-197, 10-90, 05-337, 20-85, at Attach. (SiyCom Responses to October 19 Follow-Up Questions) at 1 (filed Oct. 28, 2020) (SiyCom October 28 *Ex Parte* Letter).

¹¹ SiyCom October 28 *Ex Parte* Letter at Attach. at 1.

¹² Letter from David Gibson, CEO, 3 Rivers, and Mike Sheard, General Manager, SiyCom, to Kris A. Monteith, WCB Bureau Chief, FCC, CC Docket No. 96-45, WC Docket Nos. 09-197, 10-90, 05-337, 20-85 (filed Nov. 5, 2020) (*Applicants’ Commitment Letter*).

(A-CAM).¹³ Applicants thus contend that the proposed transaction will not have an adverse impact on the high-cost fund.¹⁴

Grant of the Section 214 Application, As Conditioned

We recognize the potential benefit of SiyCom's exclusive operational focus on expanding broadband in the Browning Exchange and on the Blackfeet Reservation, and we are persuaded that it will invest in and maximize the availability and benefits of its services to all customers.¹⁵ At the same time, we must also guard against providers receiving more universal service support than necessary, which, as the Commission has found, is "especially important in the context of limited high-cost support, because overpayment to some carriers reduces the funding available to other providers."¹⁶ Applicants assert that the proposed transaction is in the public interest and would not burden the high-cost fund because SiyCom would receive fixed model-based support post-transaction.¹⁷ However, they have not accounted for the broader impact to the fund that would directly result from the proposed transaction.

As a result of the proposed transaction, the Bureau has determined that universal service fund obligations would increase beyond current funding levels based on payments to both 3 Rivers and SiyCom. In the 2016 *Rate-of-Return Reform Order*, the Commission adopted the A-CAM cost model for distributing support to rate-of-return carriers.¹⁸ 3 Rivers did not elect to receive model-based support and

¹³ Application at 9-10.

¹⁴ *Id.* at 7-10.

¹⁵ *Id.* at 7-10 (explaining that SiyCom is headquartered in the Browning Exchange, which will be the only exchange it serves, and that it intends to work with Tribal authorities to expand voice and broadband services for the benefit of all customers); SiyCom October 28 *Ex Parte* Letter at Attach. at 1-2. SiyCom has stated that it intends to deploy fiber facilities to each home and business in the Browning Exchange "as permitted by the expected financial parameters noted in the company's five year financial projection" that it submitted to the Bureau in connection with its A-CAM deployment information. *Id.* SiyCom has explained that it operates its communications business as a "sustainable non-profit" business operation of its parent company, Siyeh Corporation, whose mission is to "promote economic development, produce revenue and employment opportunities and promote self-determination by members of the Blackfeet Nation." Application at 4-5. SiyCom has also affirmed that the Blackfeet Indian Tribe will invest substantial capital in SiyCom to support broadband deployment. *Applicants' Commitment Letter* at 1. In determining whether an applicant is financially qualified to hold Commission licenses, the Commission does not substitute its business judgment for that of the applicant, and, while we cannot know with certainty whether SiyCom would experience financial distress after consummating the transaction, we find that it has demonstrated that it has the requisite financial qualifications to hold and use Commission authorizations in the public interest. See *Applications Filed by Altice N.V. and Cablevision Systems Corporation to Transfer Control of Authorizations from Cablevision Systems Corporation to Altice N.V.*, WC Docket No. 15-257, Memorandum Opinion and Order, 31 FCC Rcd 4365, 4374-75, para. 21 (WCB, IB, MB, WTB 2016) *Applications Filed by Frontier Communications Corporation and Verizon Communications Inc. for Assignment or Transfer of Control*, WC Docket 09-95, Memorandum Opinion and Order, 25 FCC Rcd 5972, 5981-83, para. 19 (2010).

¹⁶ *Joint Application of W. Mansfield Jennings Limited Partnership and Hargray Communications Group, Inc. for Consent to the Transfer of Control of ComSouth Corporation Pursuant to Section 214 of the Communications Act of 1934*, WC Docket 18-52, Memorandum Opinion and Order, 33 FCC Rcd 4780, 4786, para. 21 (2018) (*Hargray/ComSouth Order*) (citing *Connect America Fund et al.*, Report and Order et al., 33 FCC Rcd 2990, 2995, para. 13 (2018) (*CAF 2018 Order*)).

¹⁷ Application at 10.

¹⁸ *Connect America Fund et al.*, Report and Order, Order and Order on Reconsideration and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087, 3090, para. 4 (2016) (*Rate-of-Return Reform Order*). The Commission adopted a voluntary path by which rate-of-return carriers could elect to receive fixed, model-based support under A-CAM for 10 years in exchange for deploying broadband-capable networks to eligible locations, stating that it expected A-CAM "will spur new broadband deployment in rural areas, which will help close the digital divide among rate-of-return carriers. *Id.* at 3096, para. 20. Those rate-of-return carriers opting not to receive model-based

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currently receives high-cost USF based on its costs of providing service.¹⁹ Section 54.902(c) of the Commission's rules states that a non-rate-of-return entity, such as SiyCom, purchasing an exchange from a rate-of-return company will receive model-based support.²⁰ The most recent model-based support offer to rate-of-return companies was A-CAM II.²¹ Recalculating the original A-CAM II offer for just the Browning Exchange, SiyCom would receive approximately \$2.1 million annually in high-cost support and would be required to build out to 1,826 locations.²² However, deployment in the Browning Exchange has increased since 2018.²³ When the model offer is recalculated based on current FCC Form 477 deployment, SiyCom will receive approximately \$1,551,375 annually from 2021 through 2028 with a buildout obligation of 971 locations.²⁴ For 3 Rivers, the company has estimated that its costs per loop would increase with the sale of the Browning Exchange and because it seeks to complete buildout to the remainder of the locations in its study area, it would receive more in support over a five-year period if it sells the Browning Exchange than if its existing study area remained the same.²⁵

This scenario, in which a transferor would receive more in cost-based USF support post-merger than it would have received if it did not sell exchange assets to another provider, and even though it is likely that the transferor would have to build out fiber to fewer locations, is not in the public interest.²⁶ An increase in support resulting solely from the proposed transaction would put pressure on the limited

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support continue to receive support based on their own embedded costs, consistent with Commission rules. *Id.* at 3117, para. 80.

¹⁹ Application at 10. Applicants state that 3 Rivers received an A-CAM II offer but did not accept it. *Id.* at n.13 (citing *Support Offer – Non-Tribal/Tribal Funding Results, Non-Tribal Funding Threshold \$52.50 and \$200.00 on Funding Cap, Tribal Funding Threshold \$39.38 and \$213.12 Funding Cap* (May 2, 2019) (A-CAM II Offers), located at <https://docs.fcc.gov/public/attachments/DOC-357276A1.xlsx>).

²⁰ 47 CFR § 54.902(c).

²¹ See A-CAM II Offers.

²² Staff recalculated the A-CAM II offer for the Browning Exchange. See Application at 9 (“SiyCom intends to petition the Commission to be the designated Eligible Telecommunications Carrier (‘ETC’) for the Browning Exchange and estimates it will receive approximately \$2,000,000 per year in model-based universal service support pursuant to the Commission’s A-CAM II offer.”).

²³ See FCC Form 477 Data (through December 2019).

²⁴ Staff calculated an offer of model-based support using the same bases as A-CAM II but incorporating broadband deployment as of December 2019. An authorization report for all A-CAM II companies, including SiyCom, is available at <https://docs.fcc.gov/public/attachments/DOC-368027A1.xlsx>. SiyCom requests waiver of section 54.311(a)(3) of the Commission’s rules so that the first program year for model-based support would be 2019, thus allowing 10 years of model-based support. Siyeh Communications Petition for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Act, WC Docket No. 09-197, 23 (Mar. 24, 2020) (SiyCom ETC Petition). This would put SiyCom on a different deployment schedule than every other carrier receiving model-based support and would be administratively burdensome. However, because SiyCom will be beginning its model deployment two years into the support term, we find that it is in the public interest and there is good cause to waive the requirement for SiyCom to complete 40% of 25/3 Mbps deployments by the end of year 4 (2022). 47 CFR § 1.3. This will provide SiyCom with an additional year before it needs to meet A-CAM II build-out milestones, *i.e.*, the first milestone SiyCom will be required to meet will be to have deployed broadband of 25/3 Mbps to 50% of its locations by the end of 2023. SiyCom also requests waiver of 47 CFR §54.305 so that SiyCom can receive model-based support. SiyCom ETC Petition at 24. We find that section 54.902(c) of the Commission’s rules applies in this instance, and waiver of section 54.305 is unnecessary.

²⁵ See 3 Rivers Telephone Cooperative, Inc. Second Supplement, CC Docket No. 96-45, at 4-5, Att. (May 1, 2020).

²⁶ Second Supplement, Joint Petition for Waiver of Siyeh Communications and 3 Rivers Telephone Cooperative, Inc. for Waiver of the Definition of “Study Area” Contained in Part 36, Appendix- Glossary of the Commission’s Rules, WC Docket No. 96-45 at (filed May 1, 2020) (confidential).

resources of the high-cost fund. As the Commission has found, a transaction that could result in an increased burden on the USF solely as a result of the transaction contrasts with our general expectation that transactions generate efficiencies that reduce costs.²⁷ Such an outcome is also inconsistent with the function and purpose of the A-CAM, which is to fulfill the Commission's long-standing objective of providing support based on forward-looking efficient costs.²⁸

The Commission has determined that it may impose and enforce narrowly tailored, transaction-specific conditions that address the potential harms of a transaction.²⁹ In accordance with this precedent and to prevent the transaction-specific harm associated with the adverse impact to the USF arising as a result of this proposed transaction, we impose limited conditions to cap Applicants' high-cost universal service support, as outlined by and agreed to by 3 Rivers and SiyCom.³⁰ Adopting the conditions furthers our duty to protect the public from waste, fraud, and abuse in the context of limited high-cost support.³¹ As the Commission has found in the context of other transactions impacting the USF, the conditions are also aligned with our directive to avoid overpayment to some carriers which would, in turn, reduce the funding available to other providers.³² As explained below, the conditions include specific commitments made by the Applicants.

On November 5, 2020, Applicants filed a letter in these dockets agreeing that the Applicants will not receive more high-cost universal service support as separate entities than 3 Rivers would have if it remained in its current structure.³³ In the *Applicants' Commitment Letter*, they acknowledge that the commitments will address the potential impact to the USF that would otherwise result from the proposed transaction, and assert that the commitments will advance the public interest by protecting the limited resources of the USF.³⁴ They affirm that they have no objection to conditioning a grant of the Application on their compliance with the agreed-upon commitments.³⁵ The agreed-upon commitments will cap the high cost universal service support received by 3 Rivers³⁶ and set a fixed amount of A-CAM II support for SiyCom.³⁷ The agreed-upon commitments shall remain in effect for eight years from the consummation of the transaction.³⁸ This period represents the time period during which Siyeh will

²⁷ *Hargray/ComSouth Order*, 33 FCC Rcd at 4784, para. 19.

²⁸ *Id.* at 4783, 4785-87, paras. 10, 20-23.

²⁹ See, e.g., *Applications of T-Mobile US, Inc., and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations, et al.*, WT Docket No. 18-197, Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, 34 FCC Rcd 10578, 10596, para. 40 (2019); *Applications of Level 3 Communications, Inc. and CenturyLink, Inc. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 32 FCC Rcd 9581, 9585-86, para. 9 (2017).

³⁰ *Applicants' Commitment Letter* at 1-2.

³¹ *CAF 2018 Order* at 6, para. 13.

³² See, e.g., *Hargray/ComSouth Order*, 33 FCC Rcd at 4784, para. 26 (citing *CAF 2018 Order*, 33 FCC Rcd at 2995, para. 13).

³³ *Applicants' Commitment Letter* at 1-2.

³⁴ *Id.* at 1.

³⁵ *Id.* at 2.

³⁶ *Id.* at 1. Using this cap, the 5-year mandatory deployment obligation for 3 Rivers is 7,968. Thus, 3 Rivers will be required to deploy broadband at a speed of at least 25/3 Mbps to an additional 7,968 locations since May 2016. See *Connect America Fund, et al.*, WC Docket No. 10-90 et al., Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, 33 FCC Rcd 11893, 11926-27, paras. 110-112 (2018).

³⁷ *Applicants' Commitment Letter* at 1-2.

³⁸ *Id.* The cap will not apply if the proposed transaction does not consummate.

receive model-based support under A-CAM II. We find eight years to be an appropriate duration in which to monitor enforcement of the conditions and to ensure that Applicants receive sufficient support while protecting the financial stability of the universal service fund as a limited resource.³⁹ The conditions will sunset for 3 Rivers if it becomes a model-based support company at any point during the eight-year period.

We make Applicants' agreed-upon commitments binding and enforceable conditions of our approval.⁴⁰ Having addressed and remediated with narrowly targeted conditions any potential public interest harms of the transaction, we find that the proposed transaction will lead to public interest benefits, including ensuring that customers in the Browning Exchange continue to have the opportunity to receive quality broadband services. Accordingly, and subject to the conditions stated above, we find that grant of the Application will serve the public interest, convenience, and necessity.

Study Area Boundary Waiver Request

A study area is a geographic segment of an incumbent LEC's telephone operations. Generally, a study area corresponds to an incumbent LEC's entire service territory within a state. The Commission froze all study area boundaries effective November 15, 1984.⁴¹ The Commission took this action to prevent incumbent LECs from establishing separate study areas made up only of high-cost exchanges to maximize their receipt of high-cost universal service support.⁴² A carrier must therefore apply to the Commission for a waiver of the study area boundary freeze in order to sell or purchase additional exchanges.⁴³

Generally, the Commission's rules may be waived for good cause shown.⁴⁴ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁴⁵ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁴⁶ Waiver of the

³⁹ See *Hargray/ComSouth Order*, 33 FCC Rcd at 4788-89, paras. 26-27 (imposing a 7-year limited transaction condition to cap high cost support to protect the Connect America Fund as a limited resource without being overly burdensome to the applicants post-transaction). Here, we impose the condition for eight years to be consistent with the A-CAM II support schedule.

⁴⁰ The terms of the agreement would not supersede any contradictory result required by Commission action in pending proceedings. We direct the Universal Service Administrative Company (USAC) to work with the Bureau to remove 3 Rivers from the Budget Control Mechanism calculations. Similarly, we direct 3 Rivers to work with the National Exchange Carrier Association (NECA) and the Bureau, and provide any information necessary, to remove costs associated with the Browning Exchange from 3 Rivers' costs.

⁴¹ See *MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket Nos. 78-72, 80-286, Decision and Order, 50 Fed. Reg. 939 (1985) (*Part 67 Order*) adopting Recommended Decision and Order, 49 Fed. Reg. 48325 (1984). See also 47 CFR Part 36 App.

⁴² *Connect America Fund, et al.*, WC Docket No. 10-90, CC Docket No. 96-45, Order, 31 FCC Rcd 10683, para. 2 (WCB 2016).

⁴³ *Part 67 Order* at para. 1. In 2011, the Commission adopted a streamlined process for study area waiver petitions under which the waiver is deemed granted on the 60th day after the reply comment due date unless the Bureau provides notice that the petition requires further analysis and review. *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17763, para. 267 (2011) (*USF/ICC Transformation Order*) *aff'd sub nom.*, *In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014). Because of the complex issues presented in these petitions, they were not eligible for streamlined processing.

⁴⁴ 47 CFR § 1.3.

⁴⁵ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

⁴⁶ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁴⁷

In the *USF/ICC Transformation Order*, the Commission revised its approach for evaluating petitions for study area waivers, concluding that it would apply two standards: First, the state commission having regulatory authority over the transferred exchanges does not object to the transfer and, second, the transfer is in the public interest.⁴⁸ The Commission stated that its evaluation of the public interest benefits of a proposed study area waiver will include: (1) the number of lines at issue; (2) the projected universal service fund cost per line; and (3) whether such a grant would result in consolidation of study areas that facilitates reductions in cost by taking advantage of the economies of scale, *i.e.*, reduction in cost per line due to the increased number of lines.⁴⁹

We find that the Applicants have demonstrated good cause to waive the study area boundary freeze to permit 3 Rivers to alter the boundaries of its existing Study Area No. 482255 by removing the Browning Exchange that it will transfer to SiyCom, subject to the agreed-upon commitments described above, and to create a new study area made up of the Browning Exchange.

First, the Applicants have demonstrated that the state commission with regulatory authority over the transferred exchange does not object to the requested study area waiver. The Applicants in their petition explain that, on March 3, 2020, the Montana Public Service Commission concluded that it did not object to the study area boundary change associated with the transfer of the Browning Exchange from 3 Rivers to SiyCom.⁵⁰

Second, we conclude that, on balance, the requested study area boundary freeze waiver, subject to the agreed-upon conditions in connection with the associated section 214 Application, would serve the public interest. As Applicants note, “[w]hile the Browning Exchange is among 26 exchanges currently operated by 3 Rivers, the Browning Exchange will be SiyCom’s only exchange.” Thus, the requested study area boundary freeze waiver will result in 2,322 lines, a relatively small number of lines being removed from 3 Rivers’ existing study area to create a new separate study area for SiyCom. However, the transfer of even a small number of lines can result in increases in high-cost support and put additional pressure on limited USF funds.⁵¹ As noted above, this transaction, which involves creating a new study area, would result in an overall increase in high-cost support solely as a result of the transaction. However, the conditions agreed to by the Applicants ensure that the total amount of support received by the Applicants will not increase above what it otherwise would be without this transaction. Moreover, Applicants state that “SiyCom intends to extend fiber to all locations within the Browning Exchange. SiyCom may also provide broadband services pursuant to fixed wireless services either on an interim or permanent basis. All of such build-out efforts will enable SiyCom to deliver high quality voice and broadband services to residential and business customers, including broadband services at speeds of at least 25/3 Mbps.”⁵² Deployment to all locations in the Browning Exchange, which would result in more deployment than required under the SiyCom A-CAM II offer, would result in substantial public benefits.

⁴⁷ *Northeast Cellular*, 897 F.2d at 1166.

⁴⁸ *USF/ICC Transformation Order*, 26 FCC Rcd at 17762, para. 265.

⁴⁹ *Id.*

⁵⁰ Petition at 2. See also Letter from Brad Johnson, Chairman, Montana Public Service Commission, to Kris Monteith, Chief, Wireline Competition Bureau, FCC, CC Docket No. 96-45, at 2 (filed Mar. 24, 2020) (confirming that the Montana Public Service Commission “does not object to the change in the boundary of 3 Rivers’ Study Area No. 482255 to reflect the transfer of the Browning Exchange from 3 Rivers to SiyCom”).

⁵¹ See, e.g., *Connect America Fund, et al.*, WC Docket No. 10-90, et al., Order, 35 FCC Rcd 9867, 9871-73, paras. 15-18 (WCB 2020).

⁵² Application at 7.

Finally, the requested study area boundary waiver will not result in a consolidation or study areas that facilitate reductions in cost. A new study area served by SiyCom and containing the Browning Exchange will be formed, and the 3 Rivers Study Area No. 482255 will remain without that exchange. As explained above, without conditions, the transaction would result in the Applicants receiving a greater amount of high-cost universal service support in total. However, the conditions ensure that the overall amount of support would at least remain stable.

Conclusion

Therefore, pursuant to section 214 of the Act, 47 U.S.C. § 214, and sections 0.91, 0.291, 63.03, and 63.04 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 63.03, and 63.04, the Bureau hereby grants the Application discussed in this Public Notice subject to compliance with the conditions described above.⁵³

Further, pursuant to sections 1, 4(i), 5(c), 201, 202, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 201, 202, and 254, and to the authority delegated in sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, the Bureau hereby grants the joint petition for waiver of the study area boundary freeze as codified in Part 36, Appendix Glossary, of the Commission's rules, filed by the Applicants as discussed herein, subject to compliance with the conditions described above.

Pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, these grants are effective upon release of this Public Notice. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 CFR §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice.

For further information, please contact Dennis Johnson, Wireline Competition Bureau, Competition Policy Division, (202) 418-0809.

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⁵³ Within 30 days of closing the proposed transaction, Applicants must notify USAC, so that it can make any appropriate changes to the High Cost Universal Broadband (HUBB) online location reporting portal for universal service recipients.